UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2000/35
18 January 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Situation of human rights in the Islamic Republic of Iran

Report of the Special Representative, Maurice Danby Copithorne, submitted pursuant to Commission resolution 1999/13

CONTENTS

		Paragraphs	Page
Executive summary			3
Introduction		1 - 4	5
I.	THE SPECIAL REPRESENTATIVE'S ACTIVITIES AND SOURCES	5 - 7	5
II.	FREEDOM OF EXPRESSION	8 - 16	6
III.	THE STATUS OF WOMEN	17 - 23	7

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CONTENTS (continued)

		Paragraphs	Page
IV.	THE STATUS OF MINORITIES	24 - 32	9
	A. General	24	9
	B. Evangelical Protestants	25 - 27	9
	C. Baha'is	28 - 32	10
V.	LEGAL SUBJECTS	33 - 51	11
	A. Fair trial	33 - 36	11
	B. Reform of the legal system	37 - 42	12
	C. Lawyers	43	13
	D. The prison system	44 - 45	13
	E. Torture and other cruel, inhuman or degrading treatment or punishment	46 - 51	14
VI.	DEMOCRACY/CIVIL SOCIETY	52 - 57	14
VII.	DISAPPEARANCES AND SUSPICIOUS DEATHS	58 - 61	15
VIII.	OTHER IMPORTANT MATTERS	62 - 75	16
	A. Student demonstrations	62 - 65	16
	B. Treatment of Shia dissidents	66 - 68	17
	C. The Islamic Human Rights Commission (IHRC)	69 - 71	18
	D. Drugs: a national and international problem	72 - 75	18
IX.	CORRESPONDENCE WITH THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN	76 - 77	19
X.	CONCLUSIONS	78 - 81	19

Annexes

I.	Information on the situation of the Baha'is	22
II.	Correspondence between the Special Representative and the Government of the Islamic Republic of Iran	23

Executive summary

The mandate of the Special Representative is the human rights situation in the Islamic Republic of Iran. The Special Representative submits a report to the Commission on Human Rights at its annual session and an interim report to the General Assembly. The current report addresses the developments in the mandate since the last session of the Commission with particular reference to those occurring between approximately 1 July and 15 December. As the Special Representative has not been invited lately to visit Iran, his activities are carried out entirely outside the country. He receives a wide variety of written communications from the Government, from international non-governmental organizations, and from private organizations and individuals located in Iran and abroad. He also receives representations in person during his official visits to Geneva and to New York.

The Special Representative sends both urgent representations as well as requests for information to the Government of the Islamic Republic of Iran. These are sometimes submitted alone and sometimes jointly with special rapporteurs holding thematic mandates.

The Special Representative's key findings as reflected in the current report are:

- Human rights in Iran remains a work in progress, as indeed it probably is in most countries;

- Iran is a dynamic society and in the period under review, significant progress has become evident in a number of areas, but not in all;

- In the area of freedom of expression, there has been significant progress, except with respect to the press where progress has been significant in terms of quantity, but the press advocating reform has come under severe pressure from a variety of tribunals. The result has been the closure of the journal in some cases, the imprisonment of the publisher or editor in some and the withdrawal of the licence to publish in others. There have also been some actions taken against individual journalists;

- The educational and health levels of women continue to improve but they continue to be under-represented in the work force. Despite its commitment to improving the status of women, the Government has launched no significant initiatives to address the discrimination women face in the legal system;

- The Government has shown little commitment to change in the area of the status of minorities;

- The law is one of the areas in most need of significant improvement. In the human rights context, there now seems to be a commitment on the part of the Government but so far there is little to show for it;

- In the area of democracy, elections were held for the first time at the local level. The important issue now is the Majlis elections in February 2000 and, in particular, the process for vetting the candidates;

- In the area of disappearances and suspicious deaths, as well as that of the handling of the student demonstrations that took place in July 1999, the issue is the response by the Government which so far has been neither thoroughgoing nor prompt. This has raised scepticism as to its commitment to bring the malefactors to justice in an open courtroom.

The Special Representative's key recommendations follow from the key findings outlined above. He recommends:

- That freedom of expression, with particular regard to the press, be reinforced by confining the review of the conduct of the press to the legislated press-review mechanism and that that mechanism be implemented with full regard to the principles of fair trial;

- That the Government commit itself to taking initiatives to address the discrimination women face in the legal system;

- That the Government introduce political endeavour and supporting resources to address the systemic barriers and social attitudes standing in the way of the realization of human rights by the ethnic and religious minorities;

- That the Government attach high priority to pressing forward with reform of the legal system, including by requiring all standards of fair trial to be applied in all courtrooms and by removing from the bench judges who disregard these standards or use their courtrooms to advance their own views rather than applying legally mandated norms;

- That the Government urgently address the slow and secretive manner, and indeed the conduct of the legal investigations being carried out concerning a series of murders and disappearances of political and intellectual dissidents, and of student leaders and others involved in the July student demonstrations.

Introduction

1. The Special Representative herewith presents his fifth report to the Commission on Human Rights. There has been much change in the political and social fabric of the Islamic Republic of Iran. Some of this has translated into improvements to the human rights situation in the country. The intent of this report is to capture the main areas where this progress can be seen and where it has yet to be felt.

2. The preparation of this report has not become less of a challenge. Iran is a dynamic society in which the pace of change has increased significantly over the year since the last report to the Commission. It is thus more awkward than ever to be obliged to report on only three quarters of a year; this report is being prepared in the first half of December, three months before the Commission convenes, and probably four months before the Commission reaches the relevant agenda item.

3. The Special Representative has again identified the priority areas as he sees them through which he attempts to assess the human rights situation in the country. As a result, the report is far from comprehensive; no doubt there has been change in some other areas which have not come to his attention. Similarly, there are undoubtedly dark spots which have not come to his attention.

4. Overall, progress is certainly being made and, in the Special Representative's view, it is very likely to continue, perhaps even accelerate. History suggests that it is very difficult to turn the clock back as a society comes to appreciate the inherent strength of a democratic, tolerant and inclusive community in which the dignity of the individual is truly respected.

I. THE SPECIAL REPRESENTATIVE'S ACTIVITIES AND SOURCES

5. The Special Representative introduced his fourth report to the Third Committee of the General Assembly (A/54/365) on 2 November 1999. While in New York, he held consultations with representatives of the Government of the Islamic Republic of Iran and representatives of several non-governmental organizations based in North America. The Special Representative travelled to Geneva from 3 to 14 December 1999 to draft the present report. The extensive programme for his stay in Geneva included a number of consultations and meetings with senior officials from the Government and the Office of the United Nations High Commissioner for Human Rights (OHCHR). He also met with representatives of various non-governmental organizations, and he received representations from interested persons concerning alleged human rights violations in the Islamic Republic.

6. In seeking to discharge his mandate, the Special Representative has used many sources of information, including the Government of the Islamic Republic, other Governments, individuals, non-governmental organizations and the Iranian and international media. In Geneva, the Special Representative had an opportunity to participate in an inter-agency informal consultation organized by OHCHR to discuss and exchange information among various United Nations and other intergovernmental agencies about the human rights and humanitarian situations in the Islamic Republic.

7. During the period under review, the Special Representative received written communications from the following non-governmental organizations about Iran: Amnesty International; Baha'i International Community; Committee for Defence of Liberty in Iran; Committee for the Defence of Prisoners in Iran; Committee to Protect Journalists; Constitutionalist Movement of Iran; Democratic Party of Iranian Kurdistan; Dr. Homa Darabi Foundation; Human Rights Watch; International PEN American Center; International PEN Writers in Prison Committee; Iranian Worker Left Unity; Organization for Defending Victims of Violence; National Council of Resistance of Iran; Reporters sans Frontières; Society for the Defence of Political Prisoners in Iran; and the Spectrum Institute.

II. FREEDOM OF EXPRESSION

8. Since the election of President Khatami, the press has been growing significantly in terms of the number of licences issued and in the diversity of viewpoints. With some exceptions, a wide spectrum of views on most subject areas now appears to be tolerated. There is no prepublication censorship of newspapers. Nevertheless, the real test is the nature and degree of the constraints that still exist.

9. Since the spring of 1999, the reformist press has been under growing attack. Five papers have been banned but three of these have reappeared under new names. Publishers and editors have been imprisoned and had the right to hold a licence suspended for a term of years. Typical charges are the publication of false news and provocative headlines, misleading the readership, insulting Islamic sanctities, and insulting clerics. Other recent charges have included advocating renewed relations with the United States, criticizing Iran's opposition to the Middle East peace process, and arguing that people should be allowed to clap, whistle and cheer at concerts and political rallies. Some of these cases engendered wide popular interest and frequently, outspoken support for the publication under attack. The banning of one paper was one of the precipitating events of the July student demonstrations in Tehran and Tabriz. The public trial in November of a prominent cleric-turned-politician-turned-publisher became a cause célèbre because of his defence of free speech, his condemnation of the court, and his prospective candidature in the February Majlis elections. The press generally remains defiant. The first issue of a new publication appearing only two weeks after the banning of its predecessor announced "... Fatth believes that there are no taboos in opinions and political discussions except those laid down in the constitution, and that no official is immune from criticism".

10. Government ministers have frequently expressed concern at these efforts to limit free expression. Most recently, the President has declared that what he called "the culture of criticism" must be expanded and strengthened. On another occasion he declared that the closure of certain journals and the trial of some of the persons involved "was a great loss for the system and society". The newly established journalists' associations have joined in the criticism of the current situation.

11. One of the casualties has been the credibility of both the press tribunal and the court system in general. The general courts (and in particular Tehran Branch 1410), the revolutionary courts and the clerical courts have all asserted jurisdiction over newspapers and their publishers. Until recently, the control of the press had been largely left to the legislated press control system

with its own tribunal. This tribunal has now been challenged not only from without but also by the arbitrary actions of the recently appointed judge of the court who has brought the tribunal to the brink of being dysfunctional. The judge was reprimanded for dismissing five of the press tribunal jurors, but he was not removed; his latest challenge to the integrity of the legislated system has been his apparent insistence on sitting in with the jury during its deliberations.

12. Further uncertainty was generated by draft legislation intended to address certain ambiguities in the existing law, particularly the definition of a political offence. In fact, the bill has been drafted so broadly as to constitute a weapon for a more severe repression of the press. At this writing, the draft legislation has been put over to the sixth Majlis to be convened after the February elections.

13. Also of concern has been the attitude of Iran's higher authorities that even a discussion of the death penalty could be viewed as a challenge to the Islamic law of retribution which in turn could be interpreted as a denial of Islamic principles. In the view of the Special Representative, a denial of even a discussion of the death penalty - or any other subject - clearly constitutes an impediment to the freedom of expression.

14. In October, a firestorm developed over a satirical play by four university students writing in an obscure magazine with reportedly 150 subscribers. The students had incorporated the Twelfth Imam in an attack on Iranian conservatives, apparently seeking to show that they were not as religious as they claimed. According to press reports, the investigation was presided over in inquisitorial style. Three of the students were sentenced to jail terms of up to three years for blasphemy despite their denial of any irreligious intent. They were subsequently pardoned.

15. In the Special Representative's view, unpopular, awkward or politically incorrect points of view have to be clearly distinguished from legal defamation on the one hand and erroneous reporting causing economic damage on the other. In Iran there are some judges with the apparent power to close down publications and put journalists in jail for publishing views different from their own.

16. In the other areas of cultural expression, including film, books, including translations from foreign languages, theatre and popular music, the atmosphere has improved considerably. The responsible Minister has been quoted as saying that European classical music was "undeniably beautiful". Finally, the Special Representative notes the establishment of the first post-revolution association of Iranian writers, translators, poets and researchers under the title Iran Pen Association.

III. THE STATUS OF WOMEN

17. Starting modestly in 1991, the Bureau of Women's Affairs in the Office of the President has developed a number of programmes with the declared objective of realizing social justice and the advancement of women. In 1997 the first National Plan of Action for Women was published as part of an effort to "mainstream women's concerns in the national planning process". The objective was "a balanced gender perspective within the framework of Islamic principles". The plan acknowledged that women were still behind in certain areas resulting from

"the lack of proper mechanisms which are needed to promote more positive action in issues related to women". The principle aim was declared to be "to improve the qualitative and quantitative indices of education, culture, health, social welfare and employment for all women".

18. In October 1999, the first report on the implementation of the Plan of Action was published. It provided a detailed description of the activities undertaken to achieve "gender equality and women's advancement" through the national planning process. A significant number of offices of women's affairs had been established in government ministries and across the country. Various public information programmes had also been undertaken.

19. The report notes the qualitative improvements in the health and the education and training sectors, and the heightening awareness of gender issues through the mass media. The report describes the difficulties encountered in these terms:

> "The revision process of laws and legislation on women is a long-term complex procedure which makes modification of laws difficult. The fact that Iran consists of different ethnic groups and subcultures impedes the adoption of single cultural measures to remove or correct negative perceptions and attitudes."

20. The report analyses results in 12 areas and includes a section in each on "obstacles faced and lessons learned". These include the unwillingness of certain parents to have vocational or technical training for their daughters, the privatization policy in health and medicine which prevents early detection of disease, the lack of proper records concerning violence against women, the strong patriarchal attitude in society, and the limited access to financial resources that impedes women from running for elected office. In a section entitled "Human rights of women", the report notes as obstacles the inadequate awareness of women of their legal rights, the lack of strong mechanisms for promoting the human rights of women and the "improper" enforcement of laws.

21. According to government figures, some statistics concerning women are still arresting. For example, only some 11 per cent of the workforce are women; some 27 per cent of women 15-49 years old are illiterate. While the number of women engaged in higher education is impressive, anecdotal evidence in the press describes the situation at school level in blunt terms. The shortage of schools in the rural areas and particularly in the less developed regions of the country disadvantages girls in particular. Forty-three per cent of families cite economic problems as a reason for not sending their female members to school. According to a statement attributed to a senior official of the Ministry of Education, the suicide rate among girls and young women, "fed by depression, apathy and lethargy", has grown alarmingly.

22. According to published reports, some of the problems of concern to Iranian women themselves are patriarchal views in the workplace, the existence of a Civil Code provision requiring women to obtain the permission of their husbands to take jobs (even if the provision is widely disregarded and can in any event be circumscribed by a suitable provision in a marriage contract), the continuing requirement that women obtain their husband's permission to obtain a passport, and the prevailing inequality in the marriage and divorce laws.

23. In the Special Representative's view, it is clear that the obstacles to the realization of women's rights are both legal and cultural, and that on both fronts there is a great deal to be done. On the legal side, the Special Representative has repeatedly called for leadership by the Government in introducing the necessary legal and regulatory changes to remove some of the systemic causes of complaint by Iranian women. There are many modest measures, some suggested by him in the past, that could serve as commitments to change. With regard to cultural impediments, a problem faced by many societies, there is much to be learned, negative as well as positive, from the experience of others. It is clear, however, that leadership is required from the level of village elites to that of national elites including the highest levels of Government. Action is needed now.

IV. THE STATUS OF MINORITIES

A. General

24. There appear to be several Iranian government offices or commissions which have some responsibilities for the affairs of religious and ethnic minorities but they do not appear to have a high profile and their role in addressing the concerns of minority groups is unclear. For example, one of the long outstanding requests of the religious minorities is to have the right to name the directors of their schools from within their own community. It is not clear that this is being addressed. Another is the issue of Sunni places of worship, particularly in Tehran. In the Special Representative's view it is not a sufficient response to the latter to say that there are no legal prohibitions involved.

B. Evangelical Protestants

25. It is very difficult to establish an authoritative figure for the number of Evangelical Christians in Iran, apparently because many are forced to worship in private. In 1990, it was estimated that the various Protestant congregations might include 30,000 persons of whom perhaps 15,000 were Muslim converts. The condition of these Churches is described in some detail by the Special Rapporteur of the Commission on Human Rights on the question of religious intolerance in his 1996 report to the Commission after a visit to Iran (E/CN.4/1996/95/Add.2). According to information reaching the Special Representative, there is no reason to believe that conditions have improved. These groups continue to face harassment from the Iranian security authorities in terms of pressure against Muslim converts and against perceived efforts to proselyte among Muslims. In this regard the Special Representative wishes to point out that the right of conversion is clearly recognized in the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion and Belief, and in paragraph 5 of General Comment 22 (48) of 20 July 1993 of the Human Rights Committee (see HR/GEN/1/Rev.3).

26. The Special Representative has noted in paragraph 59 below that in the fallout over the serial killings scandal, doubt is now being cast on the 1995 trial of the alleged killers of three Protestant ministers. The Special Representative notes that the 1996 report of the Special Rapporteur of the Commission on Human Rights on the question of religious intolerance referred to similar doubts among the Christian community at the time.

27. The Special Representative notes the recommendations of the Special Rapporteur set out in his report referred to above. For his part, the Special Representative also recommends that the legal status of Protestant religious associations be rehabilitated, that Protestant communities be allowed to engage in religious activities in full, that all bans and restrictions be lifted on places of worship and access thereto, and that with respect to proselytism, conversion and apostasy, the Iranian authorities recognize international standards including freedom to charge one's religion and freedom to manifest one's religion or belief, individually or in community, in public or in private.

C. Baha'is

28. The situation of the Baha'i remains serious. Baha'is continue to be subject to prolonged imprisonment, confiscation of holy places, and denial of the right to assemble. The Baha'i community faces the ongoing and systematic violation of economic, social and cultural rights, through denied access to employment, termination of pensions on religious grounds, and lack of payment of unemployment benefits.

29. Fifteen Baha'is are imprisoned in Iran, of whom four are subject to the death sentence (see annex I). In this regard, the Special Representative has received a letter dated 2 November 1999 from the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva, stating that Mr. Shabihu'llah Mahrami's death sentence had been commuted to life imprisonment, and that the relevant judiciary officials had requested commutation of the death sentence against Mr. Mousa Talibi.

30. In a November 1999 press conference in Paris, President Khatami responded to a question about the Baha'is by saying that no one should be persecuted because of his or her beliefs, and that he would defend the civil rights of all Iranians regardless of their beliefs or religion.

31. The Special Representative once again urges the Government of the Islamic Republic of Iran to improve its treatment of the Baha'i community. Specifically, he recommends that the Government cease discrimination against Baha'is in all spheres of public life and services, lift the ban on Baha'i organizations so that Baha'is may associate freely, ensure that the death penalty is not imposed on Baha'is for their religious beliefs, institute the reconstruction of destroyed places of worship wherever possible or at least ensure the provision of appropriate compensation to the Baha'i community, lift restrictions regarding the burial and honouring of the dead, and eliminate from passport application forms questions concerning religion so as to avoid infringement upon the freedom of movement.

32. The Special Representative again urges the Government of the Islamic Republic of Iran to implement the outstanding recommendations of the Special Rapporteur on religious intolerance on his visit to Iran. (E/CN.4/1996/95/Add.2, sect. II).

V. LEGAL SUBJECTS

A. Fair trial

33. The issue of fair trial is coming more and more to the fore in Iran as the Government seeks to establish the rule of law, and in particular as commitments are made by government officials that persons charged with offences will receive such treatment.

34. International standards of fair trial have been quite clearly articulated and it is obviously important that there be no misunderstanding as to what is involved. The standards concerned are to be found in the Universal Declaration of Human Rights (arts. 10 and 11), the International Covenant on Civil and Political Rights (art. 14) and various regional instruments.

35. These provide for:

(a) The right of equality before the law and the court;

(b) The right to trial by a competent, independent and impartial tribunal established by law;

(c) The right to a fair hearing;

(d) The right to a public hearing;

(e) The right to be presumed innocent;

(f) The right to be notified of the charges;

(g) The right not to be compelled to testify against oneself or confess guilt;

(h) The right to adequate time and facilities to prepare a defence;

(i) The right to be tried without undue delay;

(j) The right to defend oneself in person or through counsel of choice;

(k) The right to be present at trial and to appeal;

(l) The right to call and examine witnesses;

(m) The right to an interpreter;

(n) The right to be given reasons for judgement and to have them rendered in public;

(o) The right to appeal;

(p) The right to compensation for the miscarriage of justice;

(q) The right not to be tried again for an offence for which he/she has already been finally acquitted or convicted.

36. It is clear from the incidents reported in this and other reports on human rights in Iran, that one or more of these rights are often not available to defendants in Iranian tribunals. For example, reports reaching the Special Representative concerning the 13 Jews being detained in Shiraz on suspicion of espionage are reportedly being denied access to a lawyer of their choice, and given the lapse of 10 months since being detained, they have certainly not been brought to "trial without undue delay".

B. Reform of the legal system

37. Demands for reform of the legal system have been growing over the last two years. A new chief of the judiciary, Ayatollah Mahmoud Hashami Shahroudi, was appointed in August. He said that he wanted "clean and brave judges". In October he was quoted in the press as calling for real efforts to rehabilitate the justice system which was "in ruins". "We must tighten our belts and with determination and an iron will return to the judiciary its lost reputation". "We must presume a suspect is innocent. This way the liberties envisioned in Islam will be provided for. The right of the suspect is top priority".

38. In November Ayatollah Hashami Shahroudi spoke of the necessity of lawyers and judges finding their proper status in society, adding that the status quo "does not match what has been stipulated in Islam". He said that proposals for reform of the legal system would be forwarded to the Majlis shortly. So far, there has been an invitation to lawyers and judges to comment on the combined court system of about five years' standing that had been widely criticized by the profession, and a proposal for the establishment of a standing arbitral tribunal. Commenting in September on the student demonstration of early July, Ayatollah Hashami Shahroudi appeared to contradict a statement of the head of the revolutionary courts of Tehran, saying that the students involved were not guilty and that the issue was a social and cultural rather than a legal one.

39. The Special Representative notes the detailed commentary on reform of the legal systems and the reprinting of the United Nations Basic Principles on the Independence of the Judiciary in the August and September 1999 issues of the "Defenders News Letter", the publication of a prominent human rights NGO in Iran. It is a frank assessment of the system as seen from within Iran and together with the United Nations Basic Principles, provides something of a benchmark against which to measure the reform package promised by the head of the judiciary. It is also noted that this NGO has begun translating and distributing some reports on Iran prepared by international human rights NGOs.

40. The reform of the legal system and of the judiciary has been long outstanding and in the view of the Special Representative, the failure of the Government to address it seriously before now has been a major impediment to the introduction of a culture of human rights in the Islamic Republic.

41. There are references in other parts of this report to the shortcomings of the legal system. These include such critical matters as treatment in pretrial detention, forced confessions, the overcrowding in the prison system, the continuing existence of detention centres outside the

official prison system, and not least the denial of fair trial. Some problems suggest that urgent attention must be paid to the judiciary itself. Unacceptable conduct includes: conduct such as denying the right of the defence to call witnesses, stating that judgement would be rendered following the submission of the defence's closing submission and then issuing the judgement without giving time for the submission, sitting in on a jury deliberation, making statements about cases which do not fall within the jurisdiction of the speaker's court, sending defence lawyers to jail for such action as protesting the judge's refusal to allow him to call witnesses. Such a list is not exhaustive and perhaps not representative. However, it does suggest to the Special Representative that very thoroughgoing reform of the judiciary is urgently required.

42. There remains the long-standing problem of the Clerics Court. The Special Representative has on several occasions made clear his critical views on the conduct of the tribunal. He notes that in the opinion of many within Iran, this court is unconstitutional. The serious flaws in its procedure have been highlighted in several recent cases involving the press. The Special Representative reiterates his view that experience with this tribunal in Iran as well as that with similar tribunals in other societies has almost inevitably led to the denial of human rights, particularly with regard to the standards of fair trial.

C. Lawyers

43. The Bar Association is gradually finding its voice. In November the press carried an open letter to the Head of the Judiciary from the Association concerning the arrest in the courtroom of the lawyer representing a newspaper on trial. Later in the month the press carried the text of a letter from the Association to the Speaker of the Majlis protesting a provision in a bill before that body that would empower the judiciary to authorize lawyers to practise, a provision that the Association asserted was in flagrant contradiction with the existing Bar Independence Act, which gives such a power exclusively to the Association.

D. The prison system

44. In the past, the Special Representative has been informed that all places of detention in Iran were being brought within the jurisdiction of the Prisons Organization, a clearly desirable goal given the apparent number of places of detention operated by various government and quasi-government agencies. Whether this has yet been achieved is not clear. The international media carried an interview with one recently released editor of a weekly journal who stated that in June 1999 he had been arrested and detained for a time in the Ministry of Information (Security) detention centre within Evin prison. Following the student demonstrations he was detained again for three months in the same ministry's detention centre, known as Towhid prison, amidst appalling conditions, conditions that clearly violate the United Nations Standard Minimum Rules for the Treatment of Prisoners. In the Special Representative's view, the announced policy of transferring all places of detention to the authority of the Prisons Organization needs to be fully implemented and the standards in all facilities brought up to international levels.

45. A second major issue has been the overcrowding of Iranian prisons. In October, the Iranian press quoted the Director-General of the Prisons Organization as stating that almost two thirds of the prison population were there for drug offences, a category which has been

rapidly growing. In November, the press quoted a senior official of the Interior Ministry as declaring that Iran had 243 persons in prison for every 100,000 population against an international average of 10-15 persons per 100,000. This is a staggering figure even if the drug offence prisoners are removed from the equation. The prisons of Iran are very overcrowded as the Director-General himself has declared. Iran clearly faces a significant problem if the Government hopes to rehabilitate the majority of the prisoners. Overcrowding needs to be addressed urgently.

E. Torture and other cruel, inhuman or degrading treatment or punishment

46. The Iranian press carried a report in July that over a two-week period, some 21 men had been sentenced to amputation of fingers in Tabriz and elsewhere.

47. The Iranian press carried a report in October of two prisoners being sentenced to death, in one case to be preceded by 100 lashes and in the other by blinding.

48. The Iranian press reported in October that a married woman had been sentenced to stoning for adultery.

49. The Iranian press carried a report in November that two repeat armed robbers had been sentenced each to the amputation of their right hand and left foot.

50. The Special Representative has been calling for an end to such punishment for some time. He notes with concern reports that they have been re-promulgated in the Procedures in the General and Revolutionary Courts published in Official Gazette 1591 of 10 October 1999.

51. The possibility of torture also comes to light from time to time in the context of suspicious deaths. One such case reported in detail in the press in July 1999 was that of Mohammad Reya Karami in Isfahan. The circumstances, including the victim's arrest, subsequent transfer to hospital, testimony of the father after visiting the victim in hospital where he subsequently died, as well as the coroner's report, are highly suggestive of a case of torture. The Special Representative believes cases such as these suggest that torture in all its forms is still not an unusual event in Iran.

VI. DEMOCRACY/CIVIL SOCIETY

52. The next significant date in Iran's evolving democracy is widely considered to be the general elections of the Majlis set for 18 February 2000. It is clear that many events in Iran's political life today are being influenced by this prospect. Various political groupings are jockeying for advantage, most particularly with regard to the candidates' qualification process. In past elections, there have usually been complaints over the way the Council of Guardians carried out its responsibilities in this regard which was widely seen as arbitrary and idiosyncratic as well as being prejudicial to the prospects of reformist candidates. Efforts to establish clear legislative rules for this process were unsuccessful. The resulting August 1999 legislation has been criticized for, in the words of one press account, vesting in the Council, "vast powers to

micro-manage the election, including a number of provisions which clearly penalize the reformist cause". There were calls for the election to be postponed as well as calls that the implementation of the new law be postponed until after the February election.

53. Meanwhile, there have been increasing calls, particularly from the reformist camp, for a massive turnout of voters. The President declared that a large turnout would express "the determination of the people for development and progress".

54. Some political groupings are now arguing that the Majlis at present is "quasi-democratic" and that it is necessary to institutionalize a multiparty system. Until 1997, few licences for political groups were issued. It was announced in September 1999 that their number had now more than doubled to 100. A long-standing applicant for a licence, the "Iran Freedom Movement", reportedly has still not been issued a licence although it is in practice tolerated and is an important element on the political scene. The leader of the party has nevertheless stated that it would run candidates in the forthcoming election and argued that in accordance with the Constitution, all political parties should be allowed to run candidates.

55. The Minister of the Interior continues to express concern that the election should not take place in an atmosphere of violence and violation of law. "We must draw a clear line between the legal defence of our religion and irrational violent moves because support for violence is tantamount to overlooking [the] principle and philosophy behind the presence of the Islamic Revolution".

56. The President has continued to promote his concept of a civil society. In speaking to a board meeting of the Commission on the Implementation of the Constitution in late November, the President declared that Ayatollah Khomeni believed that "holding any ideas, even if those ideas may be against Islam, is free if someone does not embark on any attempt to topple the Government". The Ayatollah had been "steadfast in his idea of granting freedom to the minorities and various groups and people with different thoughts ...". That this view is not always respected is reflected in a press account of comments by the head of Iran State Radio and Television one month earlier in which he is quoted as declaring, "there is no religious pluralism in Islam ... A Muslim must be able to identify the enemy ... The heart of a devout Muslim must be filled with hatred against the enemies of Islam".

57. More positively, a group of Majlis deputies has announced the introduction of a bill for the amnesty of Iranians living abroad providing they do not have criminal records.

VII. DISAPPEARANCES AND SUSPICIOUS DEATHS

58. In his 1999 reports to the Commission and to the General Assembly, the Special Representative described the string of disappearances and suspicious deaths in the second half of 1998 of intellectuals and dissident political figures. Popular reaction was strong and immediate and became more so as it became clear that the killings were part of what became known as serial killings committed by officials in or close to the Ministry of Information (Security). Officially, those acts were attributed to "rogue elements" within the Ministry. Full investigation was promised with indictment and public trials to follow. In June, it was reported that one of the alleged ringleaders, Said Imami, had committed suicide in detention, news that

was greeted with much scepticism. By October, it was acknowledged that 27 persons had been detained in this matter. The name of another alleged ringleader, Mostafa Kazemi (Mousavi), began to circulate.

59. Meanwhile, dissatisfaction heightened with the slow progress of the investigation. There were demands that the investigation be broadened to include many other suspicious deaths going back to 1994. Information was filtering out attributing responsibility to present or former senior figures in the security establishment. Although denied by the military prosecutor's office, a much wider scenario began to be discussed publicly, one that involved 50 or more unexplained deaths in recent years. Included were the 1994 deaths of three Christian ministers which had been officially attributed to the Mujahedin, the deaths of Sunni community leaders, and the deaths of dissidents in bombings in Europe.

60. In December, the Speaker of the Majlis told the press that differences within the Government on the handling of the matter had been discussed between the heads of the three branches of Government in the presence of the Supreme Leader. A member of the Majlis committee trying to investigate the matter told the press that there was no responsible authority prepared to respond to the Committee's inquiries. At a December memorial service on the anniversary of the deaths of two of the intellectuals, the Secretary-General of the Society of Authors was reported to have declared that, "Basic measures have not yet been taken to identify and produce the murderers". The President himself has stated that he is not satisfied with the progress of the investigation.

61. The scandal has now raised such broad implications for the Government as well as such public scepticism that only the most thoroughgoing public inquiry and purgative action is likely to restore the Government's credibility in terms not only of law and order but of its respect for the most fundamental human rights.

VIII. OTHER IMPORTANT MATTERS

A. Student demonstrations

62. The student demonstrations in Tehran and Tabriz in early July were widely regarded as the most serious challenge the Government has faced since the Islamic Revolution. The Supreme Leader, the President and several of his ministers quickly denounced the raid upon the University of Tehran dormitories, one of a chain of escalating events that led to the students' demonstrations. Over a 1,000 students were said to have been arrested with apparently the majority of them being subsequently released.

63. The head of the Tehran Revolutionary Court had declared at one point that four of the students had been condemned to death. He gave no names and there was no evidence to suggest they had received a fair trial. Government spokesmen subsequently denied that they had been tried and sentenced. With regard to the students convicted in the Tabriz demonstrations, the press recently reported that 114 nationalist and religious figures had petitioned the head of the judiciary to order a retrial before a competent court in the presence of the students' lawyers and a jury.

64. In October, the President declared that the events at the University of Tehran had been a "disgrace". "The incident was shameful and we didn't think that one day the Islamic Republic would be forced to witness such an event". In December, Tehran radio reported that Tehran's former police chief and 19 other officers and men would be court-martialled for their part in the attack on the student dormitories. More generally, the conduct of the law enforcement agencies in the course of the student demonstrations in Tehran and Tabriz has precipitated calls in the press for the overhaul of the police system, the need for which seems to have been accepted, at least implicitly, by the national commander of these forces.

65. In the Special Representative's view, there are clearly two government agencies involved in the denial of human rights in the case of these demonstrations, the law enforcement agencies and the judiciary. While some disciplinary action has been undertaken with regard to the law enforcement agencies, there has as yet been no sign of action against the apparently disciplined and uniformed group of some 400 men bussed to the site who reportedly systematically ransacked the dormitories, assaulted students, and took a number of them prisoner. Nor has there been any recognition of wrongdoing on the part of law enforcement agencies after the students had been detained nor any accounting of the students still held and the charges, if any, against them. Further, there has yet to be a recognition of the judiciary's improper conduct in any trials that may have occurred and the prolonged pre-trial detention without access to lawyers.

B. Treatment of Shia dissidents

66. In earlier reports, the Special Representative has referred to the treatment accorded to dissident Shia clerics, a treatment that was often harsh and in total disregard of their human rights. Recently, there have been fewer such reports and indeed in one leading case, there seems to be some loosening up. Ayatollah Hossein Ali Montazeri, once the designated successor to Ayatollah Khomeni as supreme leader, was placed under house arrest in 1989 and his family and followers harassed. In 1997, outspoken criticism by Ayatollah Montazeri of the existing order of governance reached the public after which he was refused all visits and in March 1999, the mere mention of his name by the media was declared by the Clerics Court to be an offence.

67. Recently, Ayatollah Montazeri was granted permission to receive small groups of selected visitors, which he reportedly refused, declaring that he would not allow anyone to dictate who could visit him. Abdollah Nouri, in his recent celebrated trial, invoked Ayatollah Montazeri's name only to be told by the presiding judge that he would not allow the name to be mentioned. In an earlier trial in the Clerics Court of the prayer leader of a Tehran mosque charged with "propagating for Montazeri, spreading lies and confusing public opinion", the defendant was jailed for a year. He was reportedly among 180 clerics and seminary students who had signed a petition protesting the conditions under which Ayatollah Montazeri was being held.

68. In the Special Representative's view, the recent renewal of public discussion about the Montazeri case and, hopefully, the early restitution of his civil rights represent an important step in the growth of the Government's ability to tolerate dissenting political views on the most sensitive subjects.

C. The Islamic Human Rights Commission (IHRC)

69. The Special Representative has followed the evolution of this commission for some years. Obviously it should be a cornerstone in the establishment of a culture of human rights. The commission is clearly making progress and now seems to be addressing such difficult issues as the need for society to be able to debate the death penalty and, more generally, other public issues which, for some at least, touch on Islamic verities.

70. Moreover, in Iran, as seen from some of the recent cases involving the press, the right to criticize officials is often denied and is at best fragile. A major part of the work of any national human rights commission involves the criticism of officials. In the Special Representative's view, the highest levels of Government should be setting an example in this regard, particularly in manifesting their respect for and, as appropriate, deference to IHRC.

71. The Special Representative has taken note of the adoption on 8 August 1999 of a number of significant amendments to the Charter of IHRC which, among other things, provided for increased representation on the governing council of persons from the non-governmental sector.

D. Drugs: a national and international problem

72. As the Special Representative has reported in the past, Iran has gradually been acknowledging that in addition to a drug-smuggling and violence problem, it has a major domestic drug problem.

73. Most of the drugs enter the country on the eastern frontiers with Afghanistan and Pakistan, a long boundary through a harsh, thinly populated landscape that is difficult to police. According to the Government's latest figures, some 13,000 tons of contraband drugs have been seized since 1979, more than half of that in the last five years. This reportedly would mean that Iran now accounts for 85 per cent of the opium seizures and 30 per cent of the heroin and morphine seizures in the world. Some 2,700 Iranian law enforcement officials have died since 1979 in attempting to control the drug trade, 36 in one recent armed clash on 3 November near the Pakistan border. The smugglers are reportedly today typically armed with shoulder-fired anti-tank rockets, Kalashnikov assault rifles and, on occasion, even Stinger anti-aircraft missiles. Foreign tourists are now subject to kidnapping, apparently by those associated with the smuggling of drugs.

74. The head of the United Nations Office for Drug Control and Crime Prevention has recently called for greater recognition of and technical support for Iran's efforts to combat drug trafficking. The Special Representative recommends that this appeal be given serious consideration.

75. According to United Nations drug officials, there has been a growing demand for opium and heroin within Iran, particularly among those under 30. Some estimates place the number of users at 1.3 million. Such a situation carries a high social cost and by extension a human rights cost. This includes the overcrowding of jails mentioned elsewhere in this report, the devastating impact on certain tribal groups, particularly the Baluch who have been lured into the lucrative

drug trade, the spread of AIDS with reportedly 67 per cent of Iranian victims being afflicted through intravenous drug injection, the heavy burden faced by the families of addicts, and not least the diversion of so much youthful energy away from creative pursuits.

IX. CORRESPONDENCE WITH THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN

76. During the reporting period, the Special Representative received a letter dated 2 November 1999 from the Permanent Mission, in response to his letter of 3 February 1997, in which it provided the following information:

> "On the eve of the anniversary of the Prophet Mohammed (peace be upon him), the Leader of the Islamic Republic of Iran has commuted the death sentence against Mr. Zabihollah Mahramy to life imprisonment."

> "The relevant judiciary officials have requested for commutation of the death sentence against Mr. Mousa Talibi. However, the process of the commutation request is still going on."

77. The outstanding correspondence between the Special Representative and the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva is described in annex II. While acknowledging the letter of response by the Government during the reporting period, the Special Representative encourages it to make further effort to respond to his outstanding requests for information concerning individual cases.

X. CONCLUSIONS

78. Before turning to his conclusions, the Special Representative would note the following:

- Iran's thirteenth, fourteenth and fifteenth periodic reports under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/338/Add.8) were considered at the August 1999 session of the Committee on the Elimination of Racial Discrimination. The Committee noted that the Iranian report was much improved. The concluding observations of the Committee are published as CERD/C/55/Misc.32/Rev.4 of 18 August 1999 and the summary records of the relevant meetings as CERD/C/SR.1338 and 1339;

- Iran's initial report under the Convention on the Rights of the Child (CRC/C/41/Add.5) is scheduled for consideration at the May/June 2000 session of the Committee on the Rights of the Child;

- The Government of Iran invited and recently received a mission of the International Labour Organization (ILO). This was a high-level technical advisory mission to discuss all the outstanding points raised by ILO supervisory bodies concerning the application of ILO Convention No. 111;

- The Government of Iran invited and recently received a technical assistance needs assessment mission from the Office of the High Commissioner for Human Rights;

- As for the Special Representative, he was not invited to visit Iran in the period under review.

79. Turning to his conclusions, the Special Representative views Iran as a society in significant political turmoil. He believes the prospect is for substantial and far-reaching change which will inevitably have, and indeed in some areas has already had, a positive impact on the human rights situation. In the meantime, by international standards serious human rights violations continue to occur, particularly in the domain under the influence of the judiciary and of the law enforcement agencies.

80. The progress made to date is to some degree fragile. The pace of reform is uneven and in some areas there seems scant recognition of its pressing need. More particularly:

(a) In the area of freedom of expression, significant progress has been made in all the sectors that have come to the Special Representative's attention with the notable exception of the press. Here a high-profile struggle continues as to the scope of tolerated expression. At the moment, the reformist-minded newspapers are susceptible to arbitrary discipline by various tribunals for acts which do not appear to be contrary to any established legal norm. The process usually fails to meet the internationally accepted norms of fair trial. The need for a free discourse is an integral component of the civil society that the President seeks to build. The Special Representative believes that the paradigm for free speech must be tied to an objectively definable series of norms acceptable to the society as a whole. The Special Representative recommends that conscientious efforts be made by all branches of Government to achieve this goal;

(b) The Special Representative believes that significant progress is being made with regard to the status of women in selected but important sectors such as education and training, health and integration of a gender dimension into government planning. However, little progress is being made with regard to remaining systemic barriers to equality, and perhaps also, although it is less readily quantifiable, to the removal of patriarchal attitudes in society. The Special Representative recommends - again - that the Government take the lead in both these two areas;

(c) In the Special Representative's view, one of the backwaters of the human rights situation in Iran is the status of minorities, ethnic and religious. There are reports of studies being made of particular situations, but in general, the Special Representative is forced to conclude that sufficient political will is lacking to push this area onto the Government's priority list. The Special Representative recommends that the Government publicly acknowledge the need for change and that it commit itself to addressing the human rights problems that abound in this area;

(d) One of the areas in greatest need of thoroughgoing reform is that of the legal system. Clearly, it is on the Government's agenda but it seems to the Special Representative that many of the well-publicized reform proposals are regarded as simply too complex and too

politically difficult to implement with the urgency that they require. The Special Representative recommends that the announced reform of the legal system be given a high priority both in terms of political endeavour and of the allocation of resources;

(e) In many of the other areas mentioned in the body of the report, disappearance and suspicious deaths, and student demonstrations, to name only two, the Government is clearly aware of the human rights dimensions of the current problems but the machinery to address them seems to be inadequate with the result that the problems are festering and public frustration growing. The Special Representative urges the Government to cut through the apparent bureaucratic thicket and address the problems resolutely and urgently.

81. Finally, the Special Representative would observe that while the change to date has been important, human rights in Iran remains very much a work in progress. Significant problems remain some of which the Government clearly acknowledges and others which the Government appears to be reluctant to admit. Greater efforts are required.

Annex I

INFORMATION ON THE SITUATION OF THE BAHA'IS

The following is based on information received by the Special Representative.

1. The Baha'is arrested in Isfahan for their involvement with the Baha'i Institute of Higher Education (BIHE) and who received verdicts on 16 March 1999 all remain in prison. Dr. Sina Hakiman is serving a fixed prison term of 10 years. Mr. Farrad Khajeh and Habibullah Ferdosian are serving seven years and Mr. Ziaullah Mizapanah is serving three years.

2. Mr. Manuchehr Khulusi, a resident of Khurasan, was reportedly arrested on 9 June 1999 and transferred to Mashhad where he is being held in a Ministry of Information prison. While reports suggest that he was arrested because of his Baha'i activities, no indications have been given as to the charges brought against him or when his trial may be expected.

3. Mr. Arman Damishqui and Mr. Kurush Dhabihi were granted amnesty and released on 19 March 1999. They were reportedly arrested in early 1996 for having refused to renounce their faith.

4. The Special Representative received information concerning the hearing on 27 December 1998 of the Preliminary Investigations Board for Administrative Violations of the Head Office of the Board of Education and Training (Judgement No. 2687), in which Mr. Mithaqullah Ma'ani Intisari was found to have violated the law and therefore to have merited the punishment of permanent termination of governmental services. His offence was his membership in "one of the misled sects which have been rejected by Islam".

5. Baha'is remaining in Iranian prisons include Mr. Bihnam Mithaqui and Mr. Kayvan Khalajabadi, arrested on 29 April 1989 for "Zionist Baha'i activities"; Mr. Musa Talibi, arrested on 7 June 1994, charged with apostasy and sentenced to death but now being processed for commutation of sentence; Mr. Dhabihu'llah Maharami, arrested on 6 September 1995, charged with apostasy and sentenced to life, following commutation from a death sentence by the Supreme Leader of the Islamic Republic; Mr. Mansur Haddadan, arrested on 29 February 1996, charged with holding a children's art exposition and sentenced to three years in prison; Mr. Sirus Dhabihi-Muquaddam, Mr. Hidayat Kashifi Najafabadih and Mr. Ata'u'llah Hamid Nasirizadih, arrested in October/November 1997, charged with continuing "Family Life" meetings and sentenced to death; Mrs. Sonia Ahmadi and Mr. Manuchechr Ziyai, arrested on 1 May 1998, charged with holding meetings for youth and sentenced to three years' imprisonment.

6. Reports further indicate that limitations have been placed on visits to several of these prisoners held in Tehran, including the requirement that wives present proof of marriage to visit their husbands which is complicated by the non-recognition of Baha'i marriages by the Iranian authorities.

Annex II

CORRESPONDENCE BETWEEN THE SPECIAL REPRESENTATIVE AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN

1. By letter dated 21 June 1999, the Special Representative drew the urgent attention of the Iranian authorities to the reported arrest in the Islamic Republic of 13 persons, all said to be Iranian Jews, suspected of spying for Israel. While referring to international norms and standards with regard to fair trial, the Special Representative noted with concern the lengthy period the investigation of this matter had apparently taken and the assertion he had received that during this period the accused persons had been denied, among other things, family visits. Referring to the Government's statement No. 179 of 14 June 1999 on this matter, the Special Representative requested assurances that in receiving the fair trial to which the Government had committed itself, the accused would be accorded their rights in accordance with international human rights norms, including the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly in resolution 43/173 of 9 December 1988. No response has been received.

2. The Special Representative joined the Special Rapporteurs on the question of torture, and on the promotion and protection of the right to freedom of opinion and expression, in sending an urgent letter on 12 July 1999 to the Minister for Foreign Affairs concerning the arrest and detention of Hechmatollah Tabarzadi and Hossein Kachani, both journalists of the weekly publication the Hovizat-U-Khich, which had since reportedly been banned.

3. According to the information received, the authorities have indicated that the two journalists were arrested for publishing information "contrary to public order and public interest" and "issuing an anti-establishment communiqué". On 6 July 1999, a number of students and other persons reportedly protesting the detention of the above-mentioned individuals at the United Nations office in Tehran were themselves arrested. It was said that all of these individuals had been denied access to a lawyer. In view of the incommunicado nature of their detention, fears have been expressed that the above-mentioned individuals may be at risk of torture and other forms of ill-treatment.

4. In the above-mentioned letter, reference was also made to the suspension by the Government of the Salam newspaper on the same day that the Majlis passed a new law which in principle restricts freedom of the press. The Salam night editor, Morad Raisi (Veissi), was reportedly detained on 7 July 1999. In the letter, a joint appeal was made to the Government to ensure everyone's right to freedom of opinion and expression, and that the right to physical and mental integrity of the above-named persons is protected in accordance with international human rights law. No response has been received from the Government.

5. On 13 July 1999, the Special Representative, in conjunction with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, addressed a letter to the Minister for Foreign Affairs concerning the alleged attacks by armed forces and members of the vigilante group, Ansar-i Hezbollah, against student demonstrators denouncing the closure of the daily newspaper, Salam. In this regard, concern was expressed about the reported deaths of four students, Na'imi, Sohrabian, Yavari and Zakeri, and the detention of

student activists Mohamad Masud Salamati, Sayed Javad Emami and Parviz Safaria. The Government was requested to guarantee the safety and security of the students and to ensure that their right to freedom of opinion and expression is protected as set forth in article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

6. In a letter addressed on 30 July 1999 to the Minister for Foreign Affairs, the Special Representative referred to reportedly official figures, according to which a total of 1,200 persons had been arrested since the beginning of the student demonstrations, 750 of whom were said to have been released. On the same occasion, the Special Representative forwarded the names of a significant number of missing persons that had been brought to his attention. The Special Representative was particularly concerned that so many persons, some of whom reportedly had nothing to do with the latter days of demonstrations, might remain in detention without recourse to family or lawyers.

7. The above-mentioned letter also referred to communications by the Special Representative dated 18 September 1998 and 22 January 1999 regarding the insufficient medical attention provided to Mr. Amir-Entezam (see para. 1 above). Expressing deep concern about the continued detention of Mr. Amir-Entezam and his wife, Mrs. Elahe Mizani Amir-Entezam, both without apparent cause, the Special Representative observed that no response had been received from the Government to his above-mentioned communications on this case.